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10/540,219	01/17/2006	Jean-Bernard Fischer	0579-1097	5286
<div>466 7590 08/11/2010</div> <div>YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
			EXAMINER VAUGHAN, MICHAEL R	
			ART UNIT 2431	PAPER NUMBER
			NOTIFICATION DATE 08/11/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary

Application No.

10/540,219

Applicant(s)

FISCHER ET AL.

Examiner

MICHAEL R. VAUGHAN

Art Unit

2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-21, 23-30, 32, 33 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-21, 23-30, 32, 33 and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The instant application having Application No. 10/540,219 is presented for examination by the examiner. Claims 1-9, 11-21, 23-30, 32, 33, and 35-40 are pending. Claims 1, 17, and 26 have been amended.

Response to Amendment

Claim Rejections - 35 USC § 112

The current claim amendments overcome the previous 112 rejection.

Response to Arguments

Applicant's arguments filed 6/18/10 have been fully considered but they are not persuasive. Applicant alleges that Naccache does not teach three separate instructions which effect comparing the second signature to the first signature. Examiner respectfully disagrees. Naccache clearly teaches three instructions which meet the limitations imposed by the claimed invention. Specifically, the first instruction is equivalent to the 'detecting the first monitoring instruction' because it initializes the second signature calculation. Fig. 3 steps 32 and 34 show this instruction and initialization. The first instruction can also be seen in Fig. 7. Now, with respect to a second instruction, Naccache shows the second instruction in Fig. 3, step 40. The function 'F' is causing the second signature to be generated. Lastly, the third instruction which compares the first and second signatures together is shown in Fig. 3, step 50.

When this instruction is encountered, the second signature, generated by function 'F', is compared to the original signature.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., calculating a signature according to one of a plurality of functions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant appears to interpret the calculation mode in a narrower view than the claim affords. Nevertheless, Naccache teaches that the function 'F' is arbitrary and that it could relate to any type of hash function (col. 5, lines 44-51) or CRC function (col. 5, lines 53-57). Not only does Naccache teach multiple types of functions for generating the signatures, but looking at Fig. 3 and 4, it is clear that the calculation mode can be calculated at different times. In Fig. 3, 'F' is performed after reading each instruction of the block of instructions between the first and second monitoring instructions. In the calculation mode of Fig. 4, the function 'F' is not calculated until all instructions between the first and second monitoring instructions have been stored. So not only does Naccache teach multiple ways in which the second signature is calculated, but also multiple types of functions as mentioned above. All of which clearly teach or suggest the calculation mode as claimed. In view of this, the rejection must be maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8, 9, 11-21, 23-28, 32, 33, and 35-40 are rejected under 35 U.S.C. 102(e) as being anticipated by USP 7,168,065 to Naccache et al, hereinafter Naccache.

As per claim 1, Naccache teaches a method of making secure the execution of a computer program (EXE) including a set of at least one instruction, which method is characterized in that it includes:

- a first step (E30), prior to the execution of the computer program, of calculating and storing a first signature (SIG1) representative of the intended execution of the set of instructions (col. 4, lines 25-29),
- a second step (E50), during the execution of the set of instructions, of calculating and storing a second signature (SIG2) representative of the execution of the set of instructions (col. 4, lines 35-36), and
- a step (E60) of detecting an anomaly in the execution of the set of instructions on the basis of the first signature (SIG1) and the second signature (SIG2) (col. 4, lines 38-39),

wherein said set of instructions comprising at least one first instruction for initializing the calculation of the second signature (col. 9, lines 25-30 and Fig. 3, element 34), at least one second instruction depending upon the calculation mode of the second signature (Fig. 3, element 40, and col. 9, lines 34-40), and a third instruction, different than the at least one second instruction, for comparing the second signature obtained according to the at least one second instruction with the first signature (col. 9, lines 51-55 and Fig. 3, element 50).

As per claim 26, Naccache teaches a device for making secure the execution of a computer program including a set of instructions comprising at least one instruction, which device is characterized in that it includes (see abstract):

- a first register (REG1) (col. 4, line 8) for storing a first signature (SIG1) representative of the intended execution of the set of instructions (col. 4, lines 25-29),
- means (22) for calculating and storing in a second storage register (REG2) (col. 6, line 18) during the execution of the set of instructions a second signature (SIG2) representative of the execution of the set of instructions (col. 4, lines 35-36), and
- means (24) for detecting an anomaly in the execution of the set of instructions on the basis of the first signature (SIG1) and the second signature (SIG2) (col. 4, lines 35-36), said set of instructions comprising at least one first instruction for initializing the calculation of the second signature (col. 9, lines 25-30 and Fig. 3, element 34), at least one second instruction depending upon the calculation mode of the second signature (Fig. 3, element 40, and col. 9, lines 34-40), and a third instruction, different than the at

least one second instruction, for comparing the second signature obtained according to the at least one second instruction with the first signature (col. 9, lines 51-55 and Fig. 3, element 50).

As per claim 2, Naccache teaches that the first calculation and storage step (E30) is executed during the generation [preparation] of the instructions (AI, AI3) of the computer program (col. 4, line 25).

As per claims 3 and 27, Naccache teaches that the second signature (SIG2) stored during the second calculation and storage step (E50) is retained in memory during the execution of at least one second instruction following the set of instructions (col. 5, lines 4-6 and 64-68). Naccache teaches using one the preceding values in memory to calculate the next value, so therefore it must remain in memory.

As per claims 4 and 28, Naccache teaches the first signature (SIG1) is obtained from the number of instructions in the set of instructions [accounts for each number of the instructions] (col. 9, lines 23-27),

- the second signature (SIG2) is obtained from the number of instructions from the set of instructions that have been executed [numerical value of executed instructions](col. 9, lines 31-35), and in that the detection step (E60) detects an execution anomaly when the first signature (SIG1) and the second signature (SIG2) are different after the execution of the set of instructions [compare VHN to Vref] (col. 9, lines 60-64).

As per claims 8 and 32, Naccache teaches the first signature (SIG1) is obtained from the code of a critical instruction of the set of instructions (col. 4, lines 25-29),

- the second signature is obtained from the code of the critical instruction, that code being stored at the same time as or after the execution of the critical instruction [jump] (col. 14, lines 32-35), and in that
- the detection step (E60) detects an execution anomaly when the first signature (SIG1) and the second signature (SIG2) are different after the execution of the set of instructions (col. 10, lines 14-19).

As per claims 9 and 33, Naccache teaches the first signature (SIG1) is obtained from the address of a critical instruction (col. 5, line 51) of the set of instructions, the address being obtained during or after the generation of the executable code of the set of instructions (col. 4, lines 25-29),

- the second signature (SIG2) is obtained from the address of the critical instruction, that address being stored (E30) at the same time as or after the execution (E30) of the critical instruction (col. 14, lines 32-38), and
- the detection step (E60) detects an execution anomaly when the first signature (SIG1) and the second signature (SIG2) are different after the execution of the set of instructions (col. 10, lines 14-19).

As per claims 11 and 35, Naccache teaches the first signature (SIG1) and the second signature (SIG2) are error detector codes (CRC1, CRC2) calculated from the code or from an address of an instruction of the set of instructions (col. 5, lines 53-58), and in that the detection step (E60) detects an execution anomaly when the first

signature (SIG1) and the second signature (SIG2) are different after the execution of the set of instructions (col. 10, lines 14-19).

As per claims 12 and 36, Naccache teaches that the error detector codes are cyclic redundancy check codes (col. 5, lines 53-58).

As per claims 13 and 37, Naccache teaches that the error detector codes are obtained by the logical combination (XOR) of the code or an address of at least one instruction of the set of instructions (col. 5, lines 53-58). Naccache teaches the use of CRC which perform logical combination (XOR included) in order to carry out the operation. Examiner is not giving XOR patentable weight here as the syntax implies XOR as an example of logical combination.

As per claims 14 and 38, Naccache teaches the first signature (SIG1) and the second signature (SIG2) are respectively obtained during the generation and the execution of the instructions from at least two elements chosen from:
the number of instructions in the set of instructions,
the **code** of at least one instruction of the set of instructions (col. 5, lines 45-51),
the **address** of at least one instruction of the set of instructions (col. 5, lines 45-51), and
an error detector code calculated from the code or an address of at least one critical instruction of the set of instructions, the address being obtained during or after the generation of the executable code of the set of instructions (col. 5, lines 53-59), and in that the detection step (E60) detects an execution anomaly when the first signature (SIG1) and the second signature (SIG2) are different after the execution of the set of

instructions (col. 10, lines 14-19). Naccache teaches using the code and address as hash inputs thus two criteria from the list are chosen.

As per claims 15 and 39, Naccache teaches that it includes a step (E70) of destroying at least a portion of the system on which the computer program is executed, this step of destroying being made when an execution anomaly is detected in the detection step (col. 4, line 45).

As per claim 16, Naccache teaches in that the first signature (SIG1) is generated automatically [already generated before execution of program] (col. 4, line 25-30).

As per claim 17, Naccache teaches a device for processing a computer program including a set of at least one instruction, characterized in that it includes means (12) for calculating and storing a first signature (SIG1), the first signature (SIG1) stored in a memory and the first signature is representative of the intended execution of the set of instructions prior to the execution thereof (col. 4, lines 25-30), said set of instructions comprising at least one first instruction for initializing the calculation of the second signature (col. 9, lines 25-30 and Fig. 3, element 34), at least one second instruction depending upon the calculation mode of the second signature (Fig. 3, element 40, and col. 9, lines 34-40), and a third instruction, different than the at least one second instruction, for comparing the second signature obtained according to the at least one second instruction with the first signature (col. 9, lines 51-55 and Fig. 3, element 50).

As per claim 18, Naccache teaches the first signature (SIG1) [Vref] are adapted to calculate and store information obtained from the number of instructions of the set of instructions (col. 9, line 65 - col. 10, line 5).

As per claim 19, Naccache teaches the means (12) for calculating and storing the first signature (SIG1) are adapted to obtain and store information obtained from the code of a critical instruction [jump] of the set of instructions (col. 14, lines 33-35).

As per claim 20, Naccache teaches means for generating executable code from the computer program (col. 8, lines 35-36).

As per claim 21, Naccache teaches the means for calculating and storing the first signature (SIG1) are adapted to obtain and store information obtained from the address of a critical instruction (col. 5, line 51), the information being obtained of the set of instructions by the means (14) for generating executable code (col. 8, lines 35-40).

As per claim 23, Naccache teaches that the means (12) for calculating and storing the first signature (SIG1) are adapted to calculate and store information obtained from an error detector code (CRC1) calculated from the code or an address of at least one instruction of the set of instructions (col. 5, lines 53-58).

As per claim 24, Naccache teaches that the error detector code (CRC1) is a cyclic redundancy check code (col. 5, line 57).

As per claim 25, Naccache teaches that the error detector code is obtained by a logical combination (XOR) of the code or an address of at least one instruction of the set of instructions (col. 5, lines 53-58). Naccache teaches the use of CRC which perform logical combination (XOR included) in order to carry out the operation.

Examiner is not giving XOR patentable weight here as the syntax implies XOR as an example of logical combination.

As per claim 40, Naccache teaches a microcircuit card [smart card] characterized in that it includes a securing device according to claim 26 (col. 6, lines 27-35).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naccache.

As per claims 5 and 29, Naccache teaches the first signature (SIG1) is obtained from the number of instructions in the set of instructions [accounts for each number of the instructions] (col. 9, lines 23-27). The calculation performed in these claims is an obvious mathematical variation to those taught by Naccache and in claim 4. Claim 4 calculates a running hash value by each of executed instructions and ultimately compares the final result to the reference hash value. This ensures that each instruction is proper and that the instructions in the set are executed in the correct order. One of ordinary skill in the art could have simply run the hash on the unexecuted

instructions and subtracted that value to the reference hash to achieve the same desired result. This provides the same assurance that each proper instruction was executed in the correct order. Once all of the instructions are executed, the value should be zero if they all matched the reference hash value. This is simply an operational design choice. The claim would have obvious because one of ordinary skill in the art can substitute equivalent known methods which yield predictable results.

As per claims 6 and 30, Naccache teaches that an interrupt of the computer program is triggered when the value of the second signature (SIG2) is below a predetermined threshold (col. 4, lines 40-47).

As per claims 7, Naccache teaches that the first signature (SIG1) and the second signature (SIG2) are retained in memory (col. 1, line 47) during the execution of the program in the same register (REG1) (col. 9, lines 13-17).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/William R. Korzuch/

Supervisory Patent Examiner, Art Unit 2431